



Security Council

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Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 16 March 2017 from the Permanent Mission of Spain to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Spain to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to transmit herewith the report on the measures taken by Spain in accordance with paragraph 36 of Security Council resolution 2321 (2016) (see annex).

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**Annex to the note verbale dated 16 March 2017 from the
Permanent Mission of Spain to the United Nations addressed to
the Chair of the Committee**

**Report of Spain on the implementation of Security Council
resolution 2321 (2016)**

The Permanent Mission of Spain to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and, pursuant to paragraph 36 of Security Council resolution 2321 (2016), has the honour to submit herewith the report of Spain on the concrete measures taken to ensure effective implementation of the provisions of that resolution.

In response to the nuclear tests conducted by the Democratic People's Republic of Korea throughout 2016 and, in particular, following the test of 30 November 2016, the Security Council adopted resolution 2321 (2016) imposing new international sanctions against that country and expanding the scope of the measures previously adopted.

The States members of the European Union have jointly implemented the restrictive measures against the Democratic People's Republic of Korea set forth in resolution 2321 (2016) through the adoption of the following common measures:

- Council Decision (CFSP) 2016/2217 of 8 December 2016, which adds to the list of persons and entities subject to entry bans, travel restrictions and asset freezes.
- Council Decision (CFSP) 2017/345 of 27 February 2017 implementing the rest of the restrictive measures against the Democratic People's Republic of Korea, including:
 - Trade embargo on missiles and nuclear, chemical or biological weapons listed in annex III of resolution 2321 (2016).
 - Trade embargo on goods on the conventional arms dual-use list adopted by the Committee pursuant to paragraph 7 of resolution 2321 (2016).
 - Ban on all leasing, chartering or provision of crew services to vessels or aircraft of the Democratic People's Republic of Korea.
 - Ban on registering vessels in the Democratic People's Republic of Korea, obtaining authorization for a vessel to use that country's flag, and owning, leasing, operating or providing classification or certification of a vessel flagged by the Democratic People's Republic of Korea.
 - Clarification that specialized teaching and training that could contribute to the proliferation-sensitive nuclear activities of the Democratic People's Republic of Korea or the development of nuclear weapons delivery systems includes, but is not limited to, advanced materials science, advanced chemical engineering, advanced mechanical engineering, advanced electrical engineering and advanced industrial engineering.

- Suspension of scientific and technical cooperation involving persons or groups who are officially sponsored by or represent the Democratic People's Republic of Korea, except in the case of medical exchanges. In the case of scientific cooperation in the fields of nuclear science and technology, the Committee shall determine on a case-by-case basis whether or not a particular activity will contribute to that country's proliferation-sensitive nuclear activities or ballistic missile-related programmes. For other instances of technical cooperation, each member State shall determine whether or not the activity will contribute to illegal activities and shall notify the Committee in advance of such determination.
- Power of member States to list vessels as long as they have information that provides reasonable grounds to believe that the vessels are involved in illegal activities.
- Restrictions on the entry of members of the Government of the Democratic People's Republic of Korea, officials of that Government and members of that country's armed forces who have been found to be associated with illicit activities.
- Limitation of the number of bank accounts to one per diplomatic mission and consular post of the Democratic People's Republic of Korea, and to one per accredited diplomat and consular officer, at banks located in the territories of member States.
- Ban on the use by the Democratic People's Republic of Korea of real property that it owns or leases in the territory of Member States for any purpose other than diplomatic or consular activities. It is also prohibited to lease from the Democratic People's Republic of Korea any property situated outside of its own territory.
- Ban on the provision of insurance or re-insurance services to vessels owned, controlled or operated, including through illicit means, by the Democratic People's Republic of Korea.
- Ban on procuring vessel and aircraft crewing services from the Democratic People's Republic of Korea.
- Obligation to deregister any vessel that is owned, controlled or operated by the Democratic People's Republic of Korea and ban on registering any such vessel previously deregistered by another member State.
- Extension of export prohibitions by establishing a new regime for the export ban on coal. The Committee will establish a cap on exemptions relating to total exports to all member States. The export ban is extended to include new items, such as statues, new helicopters, vessels, copper, nickel, silver and zinc.
- Obligation to take the necessary measures to close existing representative offices, subsidiaries or banking accounts in the Democratic People's Republic of Korea within 90 days, unless the Committee determines on a case-by-case basis that such offices, subsidiaries or accounts are required

for the delivery of humanitarian assistance or the activities of diplomatic missions in that country.

- Prohibition of the provision of public and private financial support, including the granting of export credits, guarantees or insurance to nationals or entities involved in such trade.
 - Obligation to expel persons who are working on behalf or at the direction of a Democratic People's Republic of Korea bank or financial institution, unless the presence of the person is required for fulfilment of a judicial process or exclusively for medical, safety or humanitarian purposes.
 - Obligation to seize and dispose of (such as through destruction, rendering inoperable or unusable, storage or transfer to a State other than the originating or destination State for disposal) items the supply, sale, transfer or export of which is prohibited by Security Council resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) and 2321 (2016) that are identified in inspections, in a manner that is not inconsistent with their obligations under applicable Security Council resolutions, including resolution 1540 (2004).
 - The Committee may grant exemptions to the aforementioned prohibitions on a case-by-case basis, including when it has determined that an exemption may facilitate the work of international non-governmental organizations.
- Council Regulation (EU) 2017/330 of 27 February 2017 amending Regulation (EC) No 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea gives effect to the measures provided for in Decision (CFSP) 2017/345 of 27 February 2017. That Regulation is directly applicable to private economic agents, meaning that it is not necessary to adopt national laws to implement its provisions.
 - Commission Implementing Regulation (EU) 2016/2215 of 8 December 2016 and Council Regulation (EU) 2017/330 of 27 February 2017, both amending Council Regulation (EC) No 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea.

Spain also has comprehensive national legislation in various areas which are closely related to some of the matters covered by Security Council resolution 2321 (2016), including non-proliferation, international trade in certain types of goods, entry and travel bans and financial measures; these laws complement the above-mentioned legal instruments adopted within the European Union.

Measures adopted for the effective implementation of the provisions of Security Council resolution 2321 (2016)

Measures related to the embargo on conventional weapons and weapons of mass destruction, as well as materials, goods, equipment and related technology

Spain has its own legislation on the control of foreign trade in defence-related and dual-use materials, which subjects such transactions to strict prior controls and, where the export of such materials is not prohibited, the requirement to obtain the relevant administrative licence from the competent national licensing authority. The

applicable national legislation is Act No. 53/2007 of 28 December 2007 on the control of foreign trade in defence-related and dual-use materials and Royal Decree No. 679/2014 of 1 August 2014 approving the Regulations on the control of foreign trade in defence-related material, other material and dual-use items and technology. However, pursuant to the above-mentioned legislation, there is currently no trade in weapons and related goods between Spain and the Democratic People's Republic of Korea.

The above legislation applies to the ban on the direct or indirect supply, sale or transfer to the Democratic People's Republic of Korea of nuclear-related, ballistic missile-related or other weapons of mass destruction-related items, materials, equipment, goods and technology.

Council Regulation (EC) No. 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items is also noteworthy. This Regulation gives member States the power to prevent the brokering of any goods or materials that could be used in connection with a weapons-of-mass-destruction programme in their destination country, or of any dual-use material with possible military use in a State subject to an arms embargo.

Trade restrictions

Applications for licences for the import or export of goods to or from the Democratic People's Republic of Korea are examined on a case-by-case basis by the competent national authority, which shall grant the required licences only once it has been verified that the conditions established by the relevant national, international and European Union provisions have been met.

In the case of exports to countries considered sensitive or subject to an embargo, such as the Democratic People's Republic of Korea, a strengthened and exhaustive examination is conducted before any licence is granted. Spain has an alert system in place that was established by the Customs and Excise Department, which is the department responsible for identifying both imports from and exports to countries subject to restrictive measures and stopping the customs clearance of the goods concerned. These filters were established for any goods originating in or headed to the Democratic People's Republic of Korea. The export of such goods without the required licence constitutes an offence in accordance with the criminal legislation in force, in particular Organic Act No. 12/1995 of 12 December 1995 on countering smuggling.

Exporting certain luxury goods, the complete list of which is contained in annex III of Council Regulation (EU) 2017/330, constitutes a criminal offence under current Spanish legislation and is punishable by law.

Entry bans and travel restrictions

By Council Decision (CFSP) 2017/345 and Council Regulation (EU) 2017/330, the European Union has incorporated the persons subject to entry and travel bans added to the list by resolution 2321 (2016). This, together with Council Regulation (EC) No. 539/2001 of 15 March 2001 listing the third countries whose

nationals must be in possession of visas when crossing the external borders, forms the basis for prohibiting entry into the territory of the European Union.

In this regard, Spanish policy on foreign nationals is governed by Organic Act No. 4/2000 of 11 January 2000 on the rights and freedoms of aliens in Spain and their social integration.

Transport restrictions

The Port Authorities are responsible for authorizing entry to ports located on Spanish territory, in accordance with article 7 of Act No. 14/2014 of 24 July 2014 on maritime navigation. There is currently no direct air link between Spain and the Democratic People's Republic of Korea and there are no plans to operate commercial flights between the two countries. However, Spain has a licensing department and any future requests relating to flights to or from the Democratic People's Republic of Korea will be subject to the relevant legislation.

Financial measures and asset freezes

Spain has specific legislation on countering money-laundering and international terrorist financing. Article 42 of Act No. 10/2010 of 28 April 2010 on preventing money-laundering and terrorist financing explicitly mentions the freezing of funds in accordance with international sanctions and is fully applicable to the Democratic People's Republic of Korea.

Measures taken to prohibit the establishment of and participation in companies of the Democratic People's Republic of Korea in certain sectors

The extension of sanctions against the Democratic People's Republic of Korea provides for a ban on the establishment of joint venture companies and the acquisition of any equity, through the purchase of shares or other assets, in companies involved in nuclear programmes or the production of ballistic missiles or other weapons of mass destruction, as well as the conventional arms, metallurgical, mining, chemical, refining and aerospace industries.

In addition, the prohibition includes financing or financial assistance and the provision of direct or indirect investment services related to the above activities.

Spain has specific national legislation on Spanish investments abroad and foreign investments in Spain, namely Royal Decree 664/1999 of 23 April 1999 on foreign investments and Act No. 19/2003 of 4 July 2003 establishing the legal framework for capital transfers and financial transactions abroad, which complement Act No. 10/2010 on the prevention of money-laundering and terrorist financing.